

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) BANKRUPTCY CASE
)
SOUTH STAR FUNDING, LLC) NO. 07-65842
)
Debtor)
)
-----)
)
WELLS FARGO BANK, N.A.) JUDGE: PAUL W. BONAPFEL
)
Movant)
)
vs.)
)
SOUTH STAR FUNDING, LLC) CHAPTER 7
HARRY W. PETTIGREW, Trustee)
)
Respondents)

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW Movant and shows this Court the following:

1.

This is a Motion under Section 362(d) of the Bankruptcy Code for relief from the automatic stay for all purposes allowed by law and by Movant's contract, including, but not limited to, the right to foreclose on a certain piece of real property.

2.

Movant is the servicer of a loan secured by the property located at 13347 Aswan Roan, Opa Locka, Florida 33054. The property is security for a Promisory Note. The name of the

Borrower, as known to Movant, is Ramiro Rubio.

3.

Movant believes that Debtor holds or services a loan on this property, and that Debtor's lien is inferior to Movant's lien.

4.

The loan held by Movant is delinquent, and Movant seeks to initiate, continue and/or conclude foreclosure action on this property, in accordance with State law and its contract. Movant seeks relief from the automatic stay because it believes Debtor has an interest in the property, and foreclosure thereof would extinguish Debtor's lien.

5.

Movant's total claim is approximately \$96,868.00, and Movant believes the value of the property to be approximately \$150,000.00. Movant does not believe there is any significant equity to benefit the Estate, so it shows that it is not adequately protected.

WHEREFORE, Movant prays for an Order lifting the automatic stay, authorizing Movant to exercise its rights under its Note, Security Instrument, and appropriate state statutes, including, but not limited to, the right to initiate, continue and/or conclude foreclosure on this property. Movant prays for such other and further relief as is just and equitable.

s/

RICHARD H. SIEGEL, BAR NO. 645825
Attorney for Movant

McCalla Raymer, LLC
1544 Old Alabama Road
Roswell, Georgia 30076-2102
(770) 643-2148
(800) 845-8633

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:
	: CASE NO. 07-65842
SOUTH STAR FUNDING, LLC	:
	: CHAPTER 7
Debtor	:
	: JUDGE: PAUL W. BONAPFEL
	:
<hr/>	
WELLS FARGO BANK, N.A.,	:
	:
Movant	:
	:
v.	: CONTESTED MATTER
	:
SOUTH STAR FUNDING, LLC	:
HARRY W. PETTIGREW, Trustee	:
	:
Respondents	:
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NOTICE OF HEARING

PLEASE TAKE NOTICE that Movant has filed a Motion for Relief from the Automatic Stay and related papers with the Court seeking an Order Granting Motion for Relief from Stay.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion for Relief from the Automatic Stay in Courtroom 1401, 75 Spring Street, Atlanta, Georgia 30303 at 10:00 A.M. on October 29, 2008.

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk, United States Bankruptcy Court, 75 Spring Street, Suite 1340, Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Dated: 10/3/2008

s/

Richard H. Siegel, Bar No. 645825
Counsel for Movant
McCalla Raymer, LLC
1544 Old Alabama Road
Roswell, Georgia 30076
(770) 643-2148

BANKRUPTCY CASE NO. 07-65842

CHAPTER 7

JUDGE: PAUL W. BONAPFEL

CERTIFICATE OF SERVICE

I, Richard H. Siegel of McCalla Raymer, LLC, 1544 Old Alabama Road, Roswell, Georgia 30076-2102, certify:

That on the date below, I served a copy of the within NOTICE OF ASSIGNMENT OF HEARING, together with the "MOTION FOR RELIEF FROM THE AUTOMATIC STAY" filed in this bankruptcy matter on the following parties at the addresses shown, by regular United States Mail, postage prepaid, unless another manner of service is expressly indicated:

SouthStar Funding LLC
400 Northridge Road
Suite 1000
Atlanta, GA 30350

Ramiro Rubio
13347 Aswan Road
Opa Locka, FL 33054

Ramiro Rubio
3581 S.W. 145th Avenue
Miramar, FL 33027

J. Robert Williamson, Esquire
Scroggins & Williamson
1500 Candler Building
127 Peachtree Street, N.E.
Atlanta, GA 30303

Harry W. Pettigrew, Trustee
P.O. Box 4030
Decatur, GA 30031

J. Michael Lamberth
Lamberth, Cifelli, Stokes & Stout, P.A.
East Tower - Suite 550
3343 Peachtree Road, N.E.
Atlanta, GA 30326-1022

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND
CORRECT.

Executed on 10/3/2008 By: s/
(date) RICHARD H. SIEGEL, BAR NO. 645825
Attorney for Movant